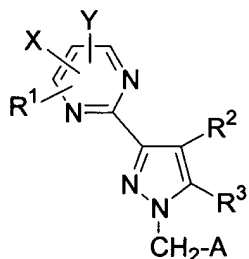


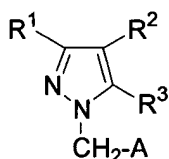
"Although the claims are not identical, they are not patentably distinct from each other because the compounds, compositions, and methods claimed herein are embraced by those of application 09/744,830."

The examiner is mistaken. The compounds of the present application have the formula



in which at least one of the substituents R¹, X, and Y represents saturated or partially unsaturated C₃-C₈-cycloalkyl, which may be optionally substituted with a variety of substituents. Thus, in compounds of the present application the pyrimidine ring must bear a cycloalkyl or cycloalkenyl group.

By contrast, application serial No. 09/744,830 claims compounds having the formula



in which R¹ represents a saturated or aromatic 5- or 6-membered heterocycle having up to 3 heteroatoms from the group consisting of S, N, and O, which may be attached via a nitrogen atom. R¹ is optionally substituted up to two times by a variety of radicals listed in "group (i)", and R¹ must be substituted by at least one radical listed in "group (ii)".

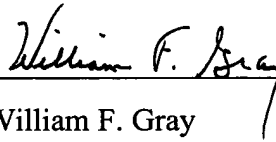
Although the group R¹ in application serial No. 09/744,830 can be a pyrimidine ring, neither the optional nor the required substituents for group R¹ listed in head claim 1 include a saturated or partially unsaturated C₃-C₈ cycloalkyl group, as required in the present application serial No. 09/744,703. Thus, the claims of the reference application do not embrace compounds of the present application as stated by the examiner.

Furthermore, there is no suggestion in the reference application that when R¹ is a pyrimidine ring, this pyrimidinyl group should bear a saturated or partially unsaturated C₃-C₈ cycloalkyl group, as required in the present application.

Accordingly, it is deemed that the claims of the present application are not obvious in view of the claims of the reference application. It is requested that the obviousness-type double patenting rejection be withdrawn.

In view of the above amendments and arguments, this application is deemed to be in condition for allowance, and allowance is accordingly requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "William F. Gray", is positioned above a horizontal line.

William F. Gray

Bayer Corporation

400 Morgan Lane

West Haven, CT 06516-4175

Reg. No. 31018

Phone: (203) 812-2712

Date: 30 Sept. '02